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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/635,027	08/04/2000	Ranjit Banerjee		2670

7590 01/10/2003  
Arthur I Degenholtz  
32 Vandelinda Ave  
Teaneck, NJ 07666

EXAMINER

WHISENANT, ETHAN C

ART UNIT	PAPER NUMBER
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1634

DATE MAILED: 01/10/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/635,027

Applicant(s)

R. BANERJEE

Examiner

Ethan Whisenant, Ph.D.

Art Unit

1634

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 November 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 3,4,9 and 10.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: 11.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See the attached.

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## **ADVISORY ACTION**

**1.** The applicant's Response to the Final Office Action has been received and considered. The applicant's response filed on 27 NOV 02 (i.e. paper no. 13) will be entered – in - part. However, newly filed **Claim 11** will not be entered because its entry will require the examiner to make a new grounds of rejection (i.e. Claim 11 would have to be rejected under 35 USC 112, 2<sup>nd</sup> paragraph because of the phrase “as proposed by the examiner”). The amendment has been entered-in –part because its entry simplifies the issues for appeal and/or places the application in better form, however, the application is not in condition for allowance because of the problem with Claim 11 and in view of the fact that the applicant has not complied with the sequence rules (see below). Following the entry of the applicant's amendment, **Claims 3-4 and 9-10** is/are pending.

### **SEQUENCE RULES**

**2.** This application still fails to comply with the requirements of 37 CFR 1.821 through 1.825. See the Notice to Comply with the Requirements for Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures. The computer readable form (i.e. CRF) filed with paper no. 13 does not match the application specification. It is noted that the applicant has pointed out that the claims as amended no longer require any sequence information. In response the examiner respectfully points out that a paper copy of the sequence listing and a CRF are required in all applications reciting nucleic acid or amino acid sequences even in those situations where the sequence(s) are not recited in the claims.

### **REASON FOR ALLOWANCE**

**3.** **Claims 3-4 and 9-10** is/are allowable for the reason(s) of record.

**CONCLUSION**

**4.** Claim(s) 3-4 and 9-10 is/are rejected and/or objected to for the reason(s) set forth above.

**5.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ethan Whisenant, Ph.D. whose telephone number is (703) 308-6567. The examiner can normally be reached Monday-Friday from 8:30AM -5:30PM EST or any time via voice mail. If repeated attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones, can be reached at (703) 308-1152.

The fax number for this Examiner is (703) 746-8465. Before faxing any papers please inform the examiner to avoid lost papers. Please note that the faxing of papers must conform with the Notice to Comply published in the Official Gazette, 1096 OG 30 (November 15, 1989). Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-0196.



Ethan Whisenant, Ph.D.  
Primary Examiner